

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. W.A. DREW)
EDMONDSON, in his capacity as ATTORNEY)
GENERAL OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TROBERT, in his)
capacity as the TRUSTEE FOR NATURAL)
RESOURCES FOR THE STATE OF)
OKLAHOMA,)

Case No. 05-CV-329-TCK-SAJ

Plaintiff(s),)

vs.)

TYSON FOODS, INC., INC., TYSON POULTRY,)
INC., TYSON CHICKEN, INC., COBB-)
VANTRESS, INC., AVIAGEN, INC., CAL-MAINE)
FOODS, INC., CAL-MAINE FARMS, INC.,)
CARGILL, INC., CARGILL TURKEY)
PRODUCTION, LLC, GEORGE'S, INC.,)
GEORGE'S FARMS, INC., PETERSON FARMS,)
INC., SIMMONS FOODS, INC., and WILLOW)
BROOK FOODS, INC.,)

Defendant(s).)

ORDER

Poultry Growers filed a motion for the Court to reconsider the May 31, 2006 Order which permitted certain inspection and sampling of property owned by non-parties. The Court previously held a telephone conference with regard to certain limited issues related to the May 31, 2006 Order and issued a Supplemental Order [docket no. 796-1] clarifying certain issues with respect to the May 31, 2006 Order. [Docket No. 757-1]. Poultry Growers additionally moved this Court to reconsider two issues addressed in the May 31, 2006 Order – relevance and taking. Plaintiff filed a response to Poultry Growers' motion.

No reply has been filed. The Court has considered the briefs, arguments, and case law presented by the parties. The motion to reconsider is denied. [Docket No. 789-1].

Poultry Growers assert that Plaintiffs have not established the relevance of the testing sought by Plaintiffs. Poultry Growers maintain that Plaintiffs should be required to make a prima facie evidentiary showing of relevance prior to seeking the discovery sought by Plaintiffs. Poultry Growers provide no additional case authority to the Court supporting their position. Regardless, the Court has reviewed and considered the relevance arguments advanced by Plaintiff and is satisfied that the discovery sought is relevant.

Poultry Growers additionally request that the Court reconsider the taking issue. The issues presented by Poultry Growers were previously considered by this Court. Poultry Growers motion is denied.

Dated this 6th day of July 2006.


Sam A. Joyner
United States Magistrate Judge